

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL NO. 1:05CV47

JANCI GARNER, as Personal)
Representative of the Estate of)
Robert L. Garner,)
)
Plaintiff,)
)
vs.)
)
UNITED STATES OF AMERICA,)
)
Defendant.)
_____)

ORDER

THIS MATTER is before the Court on Plaintiff's apparent failure to prosecute this action.

Plaintiff filed this action on February 25, 2005, and summons was duly issued by the Clerk. To date, there has been no showing that the Defendant has ever been served with process nor has the Defendant filed answer or other responsive pleading.

If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court . . . after notice to the plaintiff, shall dismiss the action without prejudice[;] . . . provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period.

Fed. R. Civ. P. 4(m).

IT IS, THEREFORE, ORDERED that Plaintiff show cause on or before 15 days from service of this Order why this action should not be dismissed for lack of prosecution.

Signed: September 8, 2005

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

